UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PERRY A. PIERCE

Appeal No. 2006-0365
Application No. 09/475,912

ON BRIEF

Before OWENS, GROSS and NAPPI, *Administrative Patent Judges.*

OWENS, *Administrative Patent Judge.*

DECISION ON APPEAL

This appeal is from a rejection of claims 1, 3-7, 9-17 and 19-24, which are all of the pending claims.

THE INVENTION

The appellant claims a data repository system and method for storing a data item by a seller and downloading the data item by a buyer. Claim 1 is illustrative:

1. A data repository system to allow a seller to store a data item that the seller wishes to sell electronically to a buyer for a fee, said repository system comprising:

a) a data storage;

b) an information storage; and

c) a monetary storage having a seller's account and a buyer's account, wherein

(i) the data storage is used to store the data item; and

(ii) the information storage is for posting the fee for downloading the data item from the data storage, and the buyer deposits the fund in the monetary storage prior to downloading the data item; wherein said data repository system further comprises a program capable of communicating with the data storage, the information storage and the monetary storage so as to store a fund deposited by the buyer to pay for downloading the data item into the buyer's account;

(iii) to allow the buyer to download a portion of the data item so that the buyer may review the data item without the possibility of downloading the data item in its entirety without paying the seller;

(iv) to deduct a monetary sum from the deposited fund according the posted fee in the information storage;

(v) to allow the buyer to download the data item from the data storage;

(vi) to credit the monetary sum to the seller's account, wherein the fee for downloading the data item has a range specified by the Seller and defined by a maximum amount, and a minimum amount wherein the maximum amount is the fee posted by the Seller, and a minimum amount is what the Seller is willing to collect from the buyer for downloading the data item so that the buyer is allowed to download the data item if the buyer's proposed monetary sum for downloading the data item is greater or equal to the minimum amount specified by the seller and after the buyer's proposed monetary sum is deducted from the buyer's account and credited to the seller's account;

(vii) to encrypt the data item prior to downloading the data item to the buyer to prevent an unauthorized person from obtaining the downloaded data item by interception; and

(viii) to provide a digital signature to the buyer to allow the buyer to verify the authenticity of the downloaded data item through a certification authority.

THE REFERENCE

Ginter et al. (Ginter)	5,892,900	Apr. 6, 1999

THE REJECTION

Claims 1, 3-7, 9-17 and 19-24 stand rejected under 35 U.S.C. § 103 as being unpatentable over Ginter.

OPINION

We reverse the aforementioned rejection. We need to address only the independent claims, i.e., claims 1 and 17.

Each of the independent claims requires that a fee for downloading a data item has a range specified by a seller and defined by a maximum amount and a minimum amount, where the maximum amount is the fee posted by the seller, and the minimum amount is the minimum the seller is willing to collect from the buyer for downloading the data item. For this claim requirement the examiner relies upon Ginter's column 272, lines 16-22, column 272, line 61 to column 273, line 22, and column 274, line 52 to column 275, line 29 (answer, pages 4-5). These portions of Ginter disclose a negotiation process wherein control sets and terms may be agreed to, but they do not disclose

seller-specified maximum and minimum amounts, where the maximum amount is posted by the seller and the minimum amount is the minimum the seller is willing to collect from the buyer. The examiner provides no argument as to why that claim requirement would have been fairly suggested to one of ordinary skill in the art by Ginter.

We therefore conclude that the examiner has not carried the burden of establishing a prima facie case of obviousness of the appellant's claimed invention.

REVERSED

TERRY J. OWENS)
Administrative Patent Judge)
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ANITA PELLMAN GROSS) BOARD OF PATENT
Administrative Patent Judge) APPEALS
) AND
) INTERFERENCES
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ROBERT E. NAPPI)
Administrative Patent Judge)

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